

Los Angeles District North Coast Interagency Review Team (NC-IRT)
Meeting Summary, September 17, 2013

Call-in and Web Meeting Info

Conference Teleconference Line: (877) 873-8018

HOST PASSWORD: 2483

ACCESS CODE: 8373883 (is also security code if host has not connected)

Web Meeting Address: [HYPERLINK "<https://www.webmeeting.att.com>"]

Meeting Number(s): (877) 873-8018

HOST PASSWORD: 2483

ACCESS CODE: 8373883

Participants (Affiliation):

John Markham (USACE, Regulatory)

Theresa Stevens (USACE, Regulatory)

Aaron Allen (USACE, Regulatory)

Dan Swenson (USACE, Regulatory)

Shannon Pankratz (USACE, Regulatory)

Brianne McGuffie (USACE, Regulatory)

Paul Amato (USEPA, Region 9)

Christine Medak (USFWS, Carlsbad Office)

Joanna Gibson (California Department of Fish and Wildlife, Region 6)

Dan Blankenship (California Department of Fish and Wildlife, Region 5)

Dave Lawhead (California Department of Fish and Wildlife, Region 5)

Kate Huckelbridge (California Coastal Commission (CCC))

Mark Adelson (Santa Ana Regional Water Quality Control Board)

Megan Cooper (California State Coastal Conservancy)

Chris Kroll (California State Coastal Conservancy)

Mary Small (California State Coastal Conservancy)

Kat Prickett (Port of Los Angeles)

Matt Arms (Port of Long Beach)

Justin Luedy (Port of Long Beach)

Stacey Crouch (Port of Long Beach)

Julie Vandermost (VCS Consulting)

Shawn Gatchel -Hernandez (VCS Consulting)

Tim DeGraff (WRA Consulting)

Nate Bello (WRA Consulting)

Tracey Brownfield (Land Veritas)

Eric Lopez (City of Long Beach)

Kim Garvey (Moffat and Nichol)

AGENDA

Announcements:

Time: 1 – 1:15 PM

- a. Approval of Mountains Restoration Trust (MRT) ILF program: [[HYPERLINK "https://rsgisias.crrel.usace.army.mil/ribits/f?p=107:100:1471440879000246:::P92_PROGRAM_ID:1261" \]](https://rsgisias.crrel.usace.army.mil/ribits/f?p=107:100:1471440879000246:::P92_PROGRAM_ID:1261)];
- b. Release of draft SPD (Regional) Mitigation and Monitoring Guidelines: see Public Notice @ [[HYPERLINK "http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/tabid/10390/Article/17551/2013-rmmg.aspx" \]](http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/tabid/10390/Article/17551/2013-rmmg.aspx)]

MB and ILF Proposals:

1) TIME: 1:15 PM

Mitigation Bank or In Lieu Fee Program: State Coastal Conservancy/Southern California Wetlands Recovery Project (SCWRP) ILF Program Prospectus

Proposed Service Area: Southern California bight (Point Conception to San Diego)

Corps Manager: John Markham

Sponsor/Consultants: Megan Cooper

Document Source: RIBITS (Corps MB and ILF program tracking website),

[[HYPERLINK](https://rsgisias.crrel.usace.army.mil/ribits/f?p=107:25:30732106240926::NO::P25_REPORT_ID,P3_LOCATION,P3_LOCATION_ID:5100,PROGRAM,2041)

"https://rsgisias.crrel.usace.army.mil/ribits/f?p=107:25:30732106240926::NO::P25_REPORT_ID,P3_LOCATION,P3_LOCATION_ID:5100,PROGRAM,2041"]

2) TIME: 2:00 PM

Mitigation Bank or In Lieu Fee Program: Soquel Canyon Mitigation Bank Development Plan, Service Area, & PAR Analysis

Proposed Service Area: TBD

Corps Manager: Shannon Pankratz

Sponsor/Consultants: Tracy Brownfield (sponsor), WRA & VCS (consultants)

Document Source: See attachments

3) Time: 2:30 PM

Mitigation Bank or In Lieu Fee Program: Petersen Ranch/Elizabeth Lake Mitigation Bank draft Prospectus, Service Area & Post-Burn Conditions

Proposed Service Area: TBD

Corps Manager: Brianne McGuffie

Sponsor/Consultants: Tracy Brownfield (sponsor), WRA & VCS (consultants)

Document Source: Draft Prospectus provided to associated IRT members on August 21, 2013. Contact Ms. McGuffie ([[HYPERLINK "mailto:Brianne.e.McGuffie@usace.army.mil" \]](mailto:Brianne.e.McGuffie@usace.army.mil)) if you would like a copy of this document. See attached materials.

4) Time: 3:15 PM

Name of MB or ILF program: Colorado Lagoon Mitigation Bank

Proposed Service Area: Southern California coastal region (Palos Verdes peninsula to OC/San Diego County border)

Corps Manager(s): Bonnie Rogers

Sponsor/Consultants: Eric Lopez (City of Long Beach, sponsor), Kim Garvey (Moffatt & Nichol, consultant)

Document Source: See attached presentation.

DISCUSSION (see **bold text** for “action items”)

- I. State Coastal Conservancy/Southern California Wetlands Recovery Project (SCWRP) ILF Program Prospectus
 - a. Sponsor/USACE:
 - i. Sponsor investigating IRT interest for out of kind credit (e.g., intertidal mitigation for subtidal impacts), as well as POLA and POLB interest in purchasing credits from the proposed ILF program.
 - b. General issues raised (by Agencies):
 - i. USACE:
 1. *Comment*: Out of kind may be acceptable if restoring/improving rare, high(er) functioning habitat types (e.g., eelgrass, salt marsh) and adequately offsetting functional losses at impact site;
 2. *Response*: Comment noted.
 3. *Comment*: Other government entities may also be interested in coastal mitigation, including Caltrans;
 4. *Response*: Comment noted.
 5. *Comment*: What are some examples of locations where such out of kind credit could be implemented?
 6. *Response*: Los Cerritos, Ballona
 7. *Comment* (following meeting): Could use bio baseline studies at POLA and POLB to inform functional assessment & credit determination processes.
 8. *Response*: TBD.
 - ii. USEPA:
 1. *Comment*: Is POLA interested in other third party mitigation programs if also developing their own Mitigation Bank?
 2. *Response* (POLA and POLB): Yes, both Ports are interested in keeping options available.
 - iii. NMFS (via written comments):
 1. *Comment*: NMFS has support out of kind mitigation in the past (e.g., Batiquitos, Bolsa Chica).
 2. *Response*: Comment noted.

3. *Comment:* Out-of-kind mitigation is acceptable to NMFS in so far as it offsets the functions lost.
4. *Response:* Comment noted.
5. *Comment:* In the case of the Ports, the most significant biological impact from fill projects is reduction in the quantity of habitat supporting fishery resources and the foraging opportunity that habitat provides to avian resources.
6. *Response:* Comment noted.

iv. CDFW:

1. *Comment:* Out of kind may be acceptable to CDFW. However, CDFW would likely raise the mitigation ratio.
2. *Response:* Comment noted.
3. *Comment:* Recommend developing a functional matrix for comparing types and degree of functions provided at subtidal impact sites and proposed intertidal mitigation sites (e.g., types and quality of habitat, aquatic wildlife surveys). This could help inform the credit determination process. Proposed restoration of Colorado Lagoon may provide a case study/example.
4. *Response:* Comment noted.

v. IRT Determinations & Recommendation(s): See above.

II. Soquel Canyon Mitigation Bank Development Plan, Service Area, & PAR Analysis

a. Sponsor/USACE:

- i. Introduced revised CEQA proposed service area by Sponsor
- ii. Introduced revised bank development plan by Sponsor
- iii. (PAR and cost estimates on agenda but not discussed)

b. General issues raised (by Agencies):

i. USACE:

1. *Comment:* Questioned the distinction between what was considered as re-habilitation and enhancement in the bank development plan, compared to the 2008 Mitigation Rule definitions. If re-habilitation is still proposed, the sponsor would have to demonstrate the bank plan would result in a functional gain of most, if not all, functions.
2. *Response:* **Sponsor will revise the bank development plan accordingly, to reflect the appropriate mitigation types in the bank development plan. Sponsor will send a red-lined version of all the edited bank development plan sections.**
3. *Comment:* Requested a single figure an overlay of both CDFW and Corps service area boundaries, including background cities and highways landmarks.

4. *Response:* **Sponsor will provide.**
5. *Comment:* Requested the sponsor to provide a step-wise progression of justification for expanding from the Corp's May 2013 proposed service area, taking into account watershed/ecological/landscape position and gradient factors; and providing increased justification the further the distance from the bank.
6. *Response:* **Sponsor will provide.**
7. *Comment:* The service area changes of pulling back from the coastal areas, or higher elevations on the northern boundaries, are still not reflected on the service area maps.
8. *Response:* **Sponsor will revise.**

ii. CDFW:

1. *Comment:* Prior CDFW comments on bank development plan regarding feasibility of mulefat planting areas.
2. *Response:* Sponsor incorporated into revised bank development plan CDFW's comment, taking out those mulefat planting areas.
3. *Comment:* CDFW has not had a chance to review/comment on the newly introduced CEQA service area.
4. *Response:* Comment noted.
5. *Comment:* Questioned the success of the proposed planting of mulefat in oak/walnut understory.
6. *Response:* Sponsor clarified mulefat planting would not be within any understory, only within gaps of low cover areas within habitat areas closer to the stream. Areas further away from the stream (open areas) would be planted with oak/walnut/native grasses. Wetter species would be planted closer to stream, and vice versa.
7. *Response to #6:* **CDFW requested this clarification to be clearly reflected within the text of the bank development plan. Sponsor will revise.**
8. *Comment:* CDFW would concentrate on a service area heavily based on biology and watershed considerations, likely resulting in a more conservative than the service area currently proposed. However, CDFW would consider allowing projects outside the SA to be mitigated at the bank as appropriate, on a case-by-case basis.
9. *Response:* Comment noted.

iii. Santa Ana RWQCB:

1. *Comment:* **Similar to CDFW #7 above, RWQCB would like the development bank plan text to be revised to match the figures.**
2. *Response:* Comment noted.

iv. Other (sponsor):

1. *Comment*: Proposes to be allowed to go outside the service area on a case by case basis, to include smaller projects and projects otherwise located within flood control channels or fully urbanized areas.
2. *Response* (Corps): **Comment noted and would be taken into consideration. Corps requested the Sponsor provide proposed language/criteria for covering any projects outside the established service area(s) on a case-by-case basis. This would include justification of how the bank would replace a given project's impaired functions, as well as discussion of fully urbanized areas and flood control channels. Ultimate approval of allowing credits to be sold outside the service area(s) would also lie with all the IRT members.**
3. *Comment*: Expressed concern over having a large enough service area to make the bank financially viable.
4. *Response*: While financial viability is an important factor in developing a service area, it is not an overriding factor in light of the watershed approach and ecological considerations. Corps is concerned about setting precedent.

v. IRT Determinations & Recommendation(s): See **bolded** action items above.

III. Petersen Ranch/ Elizabeth Lake Mitigation Bank draft Prospectus, Service Area & Post-Burn Conditions

a. Sponsor/USACE:

- i. The recent fires have created additional opportunities for mitigation work (e.g., removal of roads recently constructed within streams for fire department access);

b. General issues raised (by Agencies):

i. USACE:

1. *Comment*: Restoring the new access road to pre-disturbance conditions is preferable, unless road would be used again for same purpose in foreseeable future.
2. *Response*: It is unclear whether or not the road will be needed again.
3. *Comment*: The Corps requests the sponsor prepare a description (written & exhibits, including photos) of additional, proposed work, which will help with credit determination.
4. *Response*: Comment noted. **Sponsor will consider.**
5. *Comment*: The Corps requested a preliminary description regarding proposed mitigation work occurring upon sponsor's property that is

associated with the “Edison (permittee responsible) Project,” in order to include in public notice and ultimately in Instrument, Development Plan, and/or Long Term Management Plan.

6. *Response:* **The sponsor will discuss this further with the Corps** because they do not understand why this is relevant to the public notice.

ii. US Forest Service:

1. *Comment:* The access road was not put in by the Forest Service and there is a claims process that the sponsor can go through when private property has been damaged by things of this nature (i.e. road put in for emergency vehicle access).
2. *Response:* Comment noted.

iii. CDFW:

1. *Comment:* Currently reviewing draft Prospectus. **Will soon provide comments.**
2. *Response:* Comment noted.

iv. IRT Determinations & Recommendation(s): See **bolded** action items above.

IV. Colorado Lagoon Mitigation Bank

a. Sponsor/USACE:

- i. Phase 1 (implemented): Dredging of contaminated sediment within Lagoon, beneficial re-use of dredged sediment at POLB Middle Harbor
- ii. See presentation on two future mitigation locations/phases: Phase 2a (for use by the POLB), and Phase 2b for use by City of Long Beach and others), though may occur simultaneously
 1. Seeking to establish or re-establish shallow subtidal (importing clean fill), intertidal, and native dominated uplands within approximately 18 acres of waters of the U.S.
 2. Potential easement holders include State Lands and CDFW
 3. Potential for allowing up to 20% of credits to be sold to other (non-Port/non-City) permittees

b. General issues raised (by Agencies):

i. USACE:

1. *Comment:* Freshwater inlets?
2. *Response:* Yes, but it is limited. Nuisance (non-stormwater) flows are diverted away from Lagoon. **Sponsor will include discussion in future Prospectus.**
3. *Comment:* Any anticipated maintenance of future (excavated) inlet channel (e.g., similar to Bolsa Chica)?

4. *Response:* Yes, but infrequent, as little aggradation expected from upstream (freshwater) and downstream (tidal) sources. **Sponsor will include discussion in future Prospectus.**
5. *Comment:* What methodology is proposed to determine functional lift? Some measure of biological and physical conditions is required to project potential credits and to use as performance metrics.
6. *Response:* **To be determined. Sponsor will prepare a draft methodology, and/or present other potentially-applicable methods.** The new open channel (~4.5 acres) should show approximately 25% improvement in tidal circulation over the entire 18 acre mitigation site, which should help influence lift.
7. *Comment:* What is rationale for establishing proposed service area (e.g., San Pedro to northern Orange County border)?
8. *Response:* **To be determined.**
9. *Comment:* Corps has received Prospectus and will review for completeness.
10. *Response:* Comment noted.
11. *Comment:* It is critical that previous work using Federal funds not be counted in the proposed bank, that restoration work demonstrate a functional lift beyond that required under former Fed funding agreements, and that former agreement(s) and future bank Instrument do not conflict (seconded by USFWS).
12. *Response:* Comment noted.
13. *Comment* (following meeting): See comments on agenda topic #1 regarding out of kind mitigation and credit determination.
14. *Response:* **To be determined.**

ii. USFWS:

1. *Comment:* It is critical that previous work using Federal funds not be counted in the proposed bank.
2. *Response:* Comment noted

iii. CDFW:

1. *Comment:* Is sea-level rise considered in the mitigation/restoration design? Is future flooding a concern?
2. *Response:* The sponsor's engineers have analyzed several tidal regimes, and have accounted for an approximately 1.5 foot rise in the current preliminary design, in part by expanding intertidal and upland transition zones. Flood risk will be further evaluated as designs are developed.
3. *Comment:* Any listed species issues?
4. *Response:* Yes, CA least tern forage within the Lagoon. Sponsor proposes to schedule construction outside of breeding/nesting season.

iv. IRT Determinations & Recommendation(s): See **bolded** action items above.